

AMENDED IN ASSEMBLY APRIL 29, 1999

AMENDED IN ASSEMBLY APRIL 12, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

## ASSEMBLY BILL

**No. 1004**

**Introduced by Assembly Member Papan**

February 25, 1999

---

---

An act to amend Sections 1805.4 and 1810.4 of the Civil Code, and to amend ~~Sections 18631 and~~ *Section* 22320 of the Financial Code, relating to loan charges.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1004, as amended, Papan. Loan charges.

Existing law relative to consumer loans, retail installment contracts, and retail installment accounts authorizes the imposition by the lender on the loan or by the seller or holder of the contract or account of an amount not to exceed \$15 for the return by a depository institution of a dishonored check, negotiable order of withdrawal, or share draft. ~~Existing law authorizes an industrial loan company insurance premium finance agreement to provide for a payment of a dishonored check fee not to exceed \$5, for actual expenses incurred in processing the check.~~

This bill would increase those authorized fee amounts to \$20 *until January 1, 2001, and to \$25 thereafter.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1805.4 of the Civil Code is  
2 amended to read:

3 1805.4. The finance charge shall be inclusive of all  
4 charges incident to investigating and making the contract  
5 and for the extension of the credit provided for in the  
6 contract, and no fee, expense or other charge whatsoever  
7 shall be taken, received, reserved or contracted for  
8 except as otherwise provided in this chapter.

9 The seller or holder of a retail installment contract may  
10 charge and collect a fee not to exceed *twenty dollars*  
11 *(\$20) effective January 1, 2000, and twenty-five dollars*  
12 *(\$25) effective January 1, 2001*, for the return by a  
13 depository institution of a dishonored check, negotiable  
14 order of withdrawal, or share draft issued in connection  
15 with the retail installment contract. The fee is not  
16 included in charges as defined in this chapter or in  
17 determining the applicable charges which may be made  
18 under this chapter.

19 SEC. 2. Section 1810.4 of the Civil Code is amended  
20 to read:

21 1810.4. The finance charge shall include all charges  
22 incident to investigating and making the retail  
23 installment account. No fee, expense, delinquency,  
24 collection, or other charge whatsoever shall be taken,  
25 received, reserved, or contracted by the seller or holder  
26 of a retail installment account except as provided in this  
27 section. A seller may, however, in an agreement which is  
28 accepted by the buyer and of which a copy is given or  
29 furnished to the buyer provide for the payment of  
30 attorney's fees and costs in conformity with Article 11  
31 (commencing with Section 1811.1). Any subsequent  
32 change in any term of the agreement shall not become  
33 effective until the seller has given notice of the change  
34 and complies with the provisions of subdivision (d) of  
35 Section 1810.3. When credit cards are issued in  
36 connection with a retail installment account, the seller,  
37 either in the agreement or after giving the notice  
38 required by subdivision (d) of Section 1810.3, may



1 require the payment of an annual fee of not more than  
2 fifteen dollars (\$15) for membership in the credit card  
3 plan, which fee shall not be deemed a finance charge or  
4 interest for any purpose of the law.

5 The seller or holder of a retail installment account may  
6 charge and collect a fee not to exceed *twenty dollars*  
7 *(\$20) effective January 1, 2000, and twenty-five dollars*  
8 *(\$25) effective January 1, 2001*, for the return by a  
9 depository institution of a dishonored check, negotiable  
10 order of withdrawal, or share draft issued in connection  
11 with the retail installment account. The fee is not  
12 included in charges as defined in this chapter or in  
13 determining the applicable charges which may be made  
14 under this chapter.

15 ~~SEC. 3. Section 18631 of the Financial Code is~~  
16 ~~amended to read:~~

17 ~~18631. (a) A premium finance agreement may~~  
18 ~~provide for the payment of a default charge of one dollar~~  
19 ~~(\$1) to a maximum of 5 percent of the delinquent~~  
20 ~~installment, in the event of a default for a period of not~~  
21 ~~less than 10 days in the payment of any scheduled~~  
22 ~~installment under the terms of a premium finance~~  
23 ~~agreement. This charge may not be collected more than~~  
24 ~~once for the same default and may be collected at the~~  
25 ~~time of the default or at any time thereafter. If the default~~  
26 ~~charge is deducted from any payment received after~~  
27 ~~default occurs, and the deduction results in the default of~~  
28 ~~a subsequent installment, no charge may be made for the~~  
29 ~~resulting default.~~

30 ~~(b) A premium finance agreement may provide for~~  
31 ~~the payment of a dishonored check fee not to exceed~~  
32 ~~twenty-five dollars (\$25) for actual expenses incurred in~~  
33 ~~the processing of a dishonored check.~~

34 ~~SEC. 4.~~

35 ~~SEC. 3. Section 22320 of the Financial Code is~~  
36 ~~amended to read:~~

37 ~~22320. With respect to a loan under this division, a fee~~  
38 ~~not to exceed *twenty dollars (\$20) effective January 1,*~~  
39 ~~*2000, and twenty-five dollars (\$25) effective January 1,*~~  
40 ~~*2001*, for the return by a depository institution of a~~

1 dishonored check, negotiable order of withdrawal, or  
2 share draft may be charged and collected by the licensee.  
3 The fee is not included in charges defined in this division  
4 or in determining the applicable maximum charges that  
5 may be made under this article.

O

